

EEO CONNECTION

Statewide EEO Coordinator's Message

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In preparation for this newsletter piece, I decided that I would commemorate the notable month long observances for the month of April. Well, unbeknownst to me, there are quite a lot of causes championed by “governments, groups and organizations to raise awareness of an issue, commemorate a group or event, or celebrate something.” Therefore, I changed my mind and decided to only talk about two of the causes that matter the most to me. Diversity awareness and National Autism awareness.

Diversity is the differences among us that makes us unique and interesting and which brings us together. Diversity is not only what you see when you look at a person, but also what you don't see – our backgrounds, personality, life experiences and beliefs – all of the things that make us who **we** are. With the recent attacks in our Asian community, now is the time to condemn such violence and hate and to embrace the diversity of this country. Our workplaces benefit greatly from the diversity of its employees. This demonstrates our commitment to fair and equal opportunities for all.

Autism is a condition that can affect individuals' social skills, repetitive behaviors, speech and nonverbal communication. The Autism Society of America commemorates the Month of April 2021 with its “Celebrate Differences” campaign. Take some time to learn more, promote acceptance, and be more inclusive of those with this disorder. Turn to page 12 and listen to a dynamic speaker in a TED talk, Ethan Lisi, as he gives you a glimpse into his world living with this disorder. Ethan also breaks down the misleading stereotypes about autism. Also in this newsletter, get answers to some of your burning questions on page 3 and on page 7 read why a Virginia IHOP was sued for sexual harassment. We've listed several upcoming events that may interest you at low or no cost on page 13. There's so much more inside. Simply, turn the page.

Enjoy!

Glynis Watford
Statewide EEO Coordinator

Office of the Statewide EEO Coordinator Mission

- Administer and enforce state and federal equal employment opportunity laws and policies.
- Promote a work environment free of any unlawful discrimination, harassment, and retaliation.
- Assist in building a well-diversified workforce for Maryland State Government employees and applicants.



Ask the OSEEOC Team

1. QUESTION

How does the ADA affect workers' compensation programs?

OSEEOC ANSWER:

Only injured workers who meet the ADA's definition of an "individual with a disability" will be considered disabled under the ADA, regardless of whether they satisfy criteria for receiving benefits under workers' compensation or other disability laws. A worker also must be "qualified" (with or without reasonable accommodation) to be protected by the ADA. Although not all work-related injuries cause physical or mental impairments that "substantially limit" a major life activity, many on-the-job injuries may now constitute disabilities under the ADA's broadened definition of "disability."

2. QUESTION

Can an employer maintain existing production/performance standards for an employee with a disability?

OSEEOC ANSWER:

An employer can hold employees with disabilities to the same standards of production/performance as other similarly situated employees without disabilities for performing essential job functions, with or without reasonable accommodation. An employer also can hold employees with disabilities to the same standards of production/performance as other employees regarding marginal functions unless the disability affects the person's ability to perform those marginal functions. If the ability to perform marginal functions is affected by the disability, the employer must provide some type of reasonable accommodation such as job restructuring but may not exclude an individual with a disability who is satisfactorily performing a job's essential functions.

3. QUESTION

Are employers required to accommodate national origin traditions or practices at work?

OSEEOC ANSWER:

No. Title VII does not require accommodation of national origin traditions or practices. An employer would, however, need to grant a request for religious accommodation if doing so would not impose an undue hardship on the employer. For more information about religious accommodations, refer to [EEOC Compliance Manual Section 12: Religious Discrimination](#) and [Religious Garb and Grooming in the Workplace: Rights and Responsibilities](#).

EEOC RELEASES FISCAL YEAR 2020 ENFORCEMENT AND LITIGATION DATA

Agency Secures \$439.2 Million in Monetary Benefits for Victims

WASHINGTON — The U.S. Equal Employment Opportunity Commission (EEOC) released detailed breakdowns for the 67,448 charges of workplace discrimination the agency received in Fiscal Year (FY) 2020. The agency secured \$439.2 million for victims of discrimination in the private sector and state and local government workplaces through voluntary resolutions and litigation. The comprehensive enforcement and litigation statistics for FY 2020, which ended on Sept. 30, 2020, are posted on the agency's [website](#), which also includes detailed breakdowns of charges by state.

EEOC resolved 70,804 charges in FY 2020 and increased its merit factor resolution rate to 17.4 percent from 15.6 percent the prior year. Merit resolutions refers to charges that are resolved in the agency's administrative process (pre-litigation) in favor of the individual who filed the charge. The agency responded to over 470,000 calls to its toll-free number and more than 187,000 inquiries in field offices, including 122,775 inquiries through the online intake and appointment scheduling system, reflecting the significant public demand for EEOC's services. The agency also reduced its inventory of pending charges by 3.7 percent.

The FY 2020 data show that retaliation remained the most frequently cited claim in charges filed with the agency—accounting for a staggering 55.8 percent of all charges filed—followed by disability, race and sex.

Read the full article at: <https://www.eeoc.gov/newsroom/eeoc-releases-fiscal-year-2020-enforcement-and-litigation-data>



EEOC CONDEMNS VIOLENCE AGAINST ASIAN AMERICANS AND PACIFIC ISLANDERS IN THE UNITED STATES

WASHINGTON -- The U.S. Equal Employment Opportunity Commission (EEOC) unanimously approved a [resolution](#) condemning the recent violence, harassment, and acts of bias against Asian Americans and Pacific Islanders in the United States, the agency announced. The resolution reaffirms the Commission's commitment to combat all forms of harassment and discrimination against members of AAPI communities, and to ensure equal opportunity, inclusion, and dignity for all in the workplace.

"The Commission condemns the recent violence and discrimination against AAPI persons in the strongest possible terms," said EEOC Chair Charlotte A. Burrows. "Hatred, xenophobia, and racism violate our nation's principles. The Commission stands in solidarity with the victims, their families, and AAPI communities across the nation, and we pledge to work together to address harassment, bias, and discrimination in the workplace."

The EEOC advances equal opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information about the Commission is available on EEOC's website at www.eeoc.gov. Stay connected with the latest EEOC news by subscribing to our [email updates](#).



TELEWORK AS A REASONABLE ACCOMMODATION

Of the many things the COVID-19 pandemic has drastically changed in our lives, employment is certainly at the top of the list. Last spring, millions of people were forced to leave the office and enter the virtual workplace. Even though vaccine distribution is underway and there is hope for an end to the pandemic, the virtual workplace is here to stay for many employees. Many employers have realized the benefits of having remote workers, and not only as a safety measure in times of a public health emergency. Employers may be able to reduce the need for expensive physical office space, and many workers are able to improve productivity when they are not spending time and energy commuting. Telework will likely become a more common practice than it used to be.

Some in the disability community wonder if the pandemic has permanently changed the way employers handle requests for telework as reasonable accommodations. Long before 2020, some believed employers were resistant to requests for telework, and that pressure to work in a physical office space was keeping people with disabilities from holding jobs. Now, they argue, the pandemic has proven that telework is feasible, and there is no longer any good reason to deny requests for this accommodation.

The U.S. Equal Employment Opportunity Commission (EEOC) recently stated that the regulations governing ADA accommodations have not changed in response to the pandemic and widespread telework. Employees should not assume that a request to work remotely will now be granted automatically. Employers can still deny requests to telework if alternative accommodations will effectively meet disability-related needs.

However, arguments for and against the feasibility of working remotely have undoubtedly been affected by the events of 2020. Many employers have discovered that business can go on even when the entire staff is teleworking. Employees with disabilities may want to request the continuation of telework when the employer calls the staff back to the office, and the fact that virtual work was successfully accomplished for many months could be strong evidence in favor of the request.

But employees should also be aware that the successful implementation of telework during the past year cannot simply be generalized to how work will be done in the future. When physical workplaces were closed, many employers adjusted or even suspended some job tasks – including, in some cases, essential job duties – but this was a unique situation. An employer is never required to remove essential functions as an accommodation for a worker with a disability. For example, if meeting in person with clients is an essential job function that was suspended because of the pandemic, an employer can require that it resume once it is again safe to meet in person.

Read the full article at: <https://www.adainfo.org/news/focal-point-2>

NOTEWORTHY RULINGS

EEOC SUES VIRGINIA IHOP OWNER FOR SEXUAL HARASSMENT AND CONSTRUCTIVE DISCHARGE

Restaurant General Manager Sexually Harassed Women, Including Teen Workers, Federal Agency Charges

BALTIMORE – Koerner Management Group, Inc., doing business as IHOP (KMG), a Virginia-based corporation that owns 12 IHOP restaurant franchises, subjected women, including teen workers, to sexual harassment, the U.S. Equal Employment Opportunity Commission (EEOC) agency charged in a lawsuit it announced today.

According to the EEOC's lawsuit, a manager at KMG's IHOP restaurant in Frederick, Md., subjected a group of female employees to unwanted advances and touching, including asking teen workers to show their breasts to him and exposing himself to a teen worker. The manager also made sexual comments about female employees' attire and bodies, called them by denigrating sexual epithets, asked intrusive questions about their personal relationships, and showed one teen worker an explicit sexual video. The manager also solicited employees for sex and punished those who rejected his advances and gave preferential treatment to those who submitted, according to the lawsuit.

The EEOC charges that the manager conditioned employment decisions on acquiescing to his sexual advances, including with respect to leave, scheduling, shift and table assignments, and other terms of employment. KMG did not have an effective anti-harassment policy or provide training on how to report harassment. KMG knew about the sexual harassment, including from one teen worker calling IHOP's corporate office to complain, but KMG failed to stop the harassment, according to the lawsuit.

Sexual harassment violates Title VII of the Civil Rights Act of 1964. The EEOC filed suit EEOC v. Koerner Management Group, Inc., d/b/a IHOP, Civil Action No. 1:21-cv-00652-- in U.S. District Court for the District of Maryland, Northern Division, after first attempting to reach a pre-litigation settlement through its voluntary conciliation process. The EEOC seeks back pay, compensatory damages and punitive damages, as well as injunctive relief.

"Unfortunately, sexual harassment remains a serious problem in the restaurant industry," said EEOC Philadelphia Regional Attorney Debra Lawrence. "The EEOC is committed to protecting all workers from sexual harassment if an employer fails to do so."

Read the full article at: <https://www.eeoc.gov/newsroom/eeoc-sues-virginia-ihop-owner-sexual-harassment-and-constructive-discharge>



NOTEWORTHY RULINGS

BURROW GLOBAL TO PAY \$50,960 TO SETTLE EEOC AGE DISCRIMINATION LAWSUIT

Engineering and Construction Company Fired Employee Because of His Age In Violation of Federal Law, Federal Agency Charged

HOUSTON – Burrow Global Services, LLC, headquartered in Houston, Texas, will pay a former employee \$50,960 to resolve an age discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced. Burrow Global provides engineering, design, and related technical services for clients in the petrochemical and refining industries.

According to the EEOC's suit, filed in 2020, a senior electrical designer over age 60 was subjected to age discrimination when a much younger individual became his supervisor. Almost immediately, the new supervisor began making comments about retirement and repeatedly asking the employee when he planned to retire, the EEOC said. The lawsuit further charged that, shortly thereafter, the supervisor made the decision to terminate the employee. Burrow Global subsequently offered the employee's position to a significantly younger person, the EEOC said.

Such alleged conduct violates the Age Discrimination in Employment Act (ADEA), which prohibits discrimination on the basis of age. The EEOC filed its suit (Civil Action No. 4:20-cv-00423) in U.S. District Court for the Southern District of Texas after first attempting to resolve the case through its administrative conciliation process.

Under a three-year consent decree entered March 26, 2021, Burrow Global will pay the employee \$50,960 in back pay and liquidated damages and will also conduct training regarding the ADEA, update its ADEA policies, post a notice prohibiting discrimination, and provide regular reports to the EEOC.

"The ADEA protects workers age 40 and over from adverse actions taken by employers on the basis of age," stated Rudy Sustaita, regional attorney for the EEOC's Houston District Office. "We will continue to bring lawsuits to enforce the law in instances where age was a cause of an adverse employment action."

Read the full article at: <https://www.eeoc.gov/newsroom/burrow-global-pay-50960-settle-eeoc-age-discrimination-lawsuit>



ADA CORNER

OPTIMAL SOLUTIONS & TECHNOLOGIES WILL PAY \$60,000 TO SETTLE EEOC DISABILITY DISCRIMINATION SUIT

Logistics Service Provider Fired Administrator with a Benign Brain Tumor, Federal Agency Charged

BALTIMORE - Optimal Solutions & Technologies, Inc. (OST), a provider of cyber, engineering, logistics and managed services, will pay \$60,000 and furnish significant equitable relief to resolve a federal disability discrimination suit by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

According to the EEOC's suit, a senior SharePoint administrator working at OST's Hyattsville, Md., facility informed his supervisor that he had a benign brain tumor which would require about six weeks of radiation treatment, and that the treatments, which would be scheduled after work, would not affect his ability to perform his job. The EEOC charged that despite his good job performance, OST abruptly fired the administrator about one month after he disclosed his medical condition and only one week before he was scheduled to begin his radiation treatment.

The Americans with Disabilities Act (ADA) prohibits discrimination based on disability. The EEOC filed suit (EEOC v. Optimal Solutions & Technologies (OST, Inc.), Civil Action No. 8:17-cv-02861) in U.S. District Court for the District of Maryland, Southern Division, after first attempting to reach a pre-litigation settlement through its conciliation process.

In addition to \$60,000 in monetary relief for the worker, the two-year consent decree resolving the suit enjoins OST from violating the ADA in the future. In addition, OST must provide equitable relief, including redistribution of its ADA and reasonable accommodation policies to employees; training on the ADA; a neutral letter of reference for the employee; posting a notice of the settlement and posters required by EEOC regulations; and reporting to the EEOC on its compliance with the consent decree and on how it handles any future complaints of disability discrimination.

"This resolution compensates the worker for his losses and contains important remedial measures to protect other workers from disability discrimination," said EEOC Regional Attorney Debra M. Lawrence.

Read the full article at: <https://www.eeoc.gov/newsroom/optimal-solutions-technologies-will-pay-60000-settle-eeoc-disability-discrimination-suit>

ADA CORNER

CRACKER BARREL OLD COUNTRY STORE WILL PAY \$15,000 TO SETTLE EEOC DISABILITY DISCRIMINATION LAWSUIT

Restaurant Refused to Hire Deaf Applicant, Federal Agency Said

BALTIMORE -- Cracker Barrel Old Country Store, a major restaurant chain, will pay \$15,000 and provide significant equitable relief to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency.

According to the EEOC's suit, an applicant who is deaf applied online for the position of dishwasher. When he appeared for his scheduled interview at the restaurant's Linthicum Heights, Md., store, however, he was turned away by a manager and later formally rejected by the restaurant after repeated attempts to contact them. Despite this, he was able to achieve a successful employment history elsewhere in the restaurant industry, including as a dishwasher. The EEOC alleged that the manager who turned him away did so because of his deafness.

Disability discrimination in employment violates the Americans with Disabilities Act (ADA), which includes protecting disabled job applicants from inferior treatment because of their disability. The EEOC first attempted to reach a pre-litigation settlement through its conciliation process before filing suit in U.S. District Court for the District of Maryland, Baltimore Division (EEOC v. Cracker Barrel Old Country Store, Civil Action No. 1:18-cv-02674-PX).

“This settlement should remind all employers that applicants, despite their disabilities, must be given the same opportunities to apply for and succeed in the workplace as non-disabled applicants,” said EEOC District Director Jamie Williamson of the EEOC's Philadelphia District Office. “Hiring decisions should be made based on an individual's qualifications and not because of a disability.”

In addition to the \$15,000 in monetary relief to the applicant, Cracker Barrel Old Country Store is enjoined from future disability discrimination and is required to provide training on the ADA, including on non-discriminatory interviewing and hiring practices. The restaurant must also post a notice reminding employees of their rights under the ADA.

Read the full article at: <https://www.eeoc.gov/newsroom/cracker-barrel-old-country-store-will-pay-15000-settle-eeoc-disability-discrimination>



ADA CORNER

INTERCONNECT CABLE TECHNOLOGIES TO PAY \$35,000 TO SETTLE EEOC DISABILITY DISCRIMINATION SUIT

Electronics Manufacturer Demoted and Fired Employee Due to Her Mental Illness, Federal Agency Charges

Interconnect Cable Technologies Corporation (ICTC), an electronics manufacturer in Brooksville, Fla., has agreed to pay \$35,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

The EEOC charged that ICTC violated federal law by demoting and later firing an employee after she was hospitalized for a mental illness. The employee was hospitalized and diagnosed with major depressive disorder. When she returned to work the following week, ICTC immediately stripped her of her job duties and later demoted her and cut her pay. ICTC terminated her employment about four months after her hospitalization.

Such alleged conduct violates the Americans With Disabilities Act (ADA), which prohibits employers from discriminating based on disability. The EEOC filed suit in U.S. District Court for the Middle District of Florida, Tampa Division (EEOC v. Interconnect Cable Technologies Corporation, Case No. 8:20-cv-00644-SCB-SPF) after first attempting to reach a pre-litigation settlement through its conciliation process.

In addition to the \$35,000 in monetary relief, the three-year consent decree settling the lawsuit requires ICTC to appoint an ADA coordinator, develop and distribute a written policy against disability discrimination, and to conduct anti-discrimination training for all company personnel. ICTC must also post a notice at its worksite about the lawsuit and submit annual written reports to the EEOC.

“This settlement reflects the EEOC’s strong commitment to protecting the rights of qualified and capable employees living with mental illness,” said Robert Weisberg, regional attorney for the EEOC’s Miami District. “Employment decisions based on stereotypes or assumptions about mental illness are unlawful, and the EEOC will take action to prevent it.”

Evangeline Hawthorne, director of the EEOC’s Tampa Field Office, said, “Demoting or firing individuals because of disability, whether physical or mental, violates federal law. This resolution brings the EEOC closer to achieving its mission of eliminating disability discrimination from America’s workplace.”

Read full article: <https://www.eeoc.gov/newsroom/interconnect-cable-technologies-pay-35000-settle-eeoc-disability-discrimination-suit>



DIVERSITY AND INCLUSION TED TALK

What it is Really Like to Have Autism



Autism is not a disease; it's just another way of thinking," says Ethan Lisi. Offering a glimpse into the way he experiences the world, Lisi breaks down misleading stereotypes about autism, shares insights into common behaviors like stimming and masking and promotes a more inclusive understanding of the spectrum.

https://www.ted.com/talks/ethan_lisi_what_it_s_really_like_to_have_autism



Meetings & Trainings

Make it Happen: LGBTQ+ Inclusive Workspaces

April 12, 2021—6:30 p.m.

Presented by Sacred Fire Creative

A growing portion of your employees or clients are identifying as LGBTQ+, and they are in search of employers and providers who not only understand, but embrace and celebrate them and their unique perspectives and culture. We'll spend a few minutes going over some basics; then we'll talk about how to make it happen: how to create an inclusive workplace for this growing community. Finally we'll play a game and brainstorm some immediate action you can take.

Register: <https://www.eventbrite.com/e/make-it-happen-lgbtq-inclusive-workplaces-tickets-145358385845?aff=ebdssbonlinesearch>

Philadelphia Workshop: The Leave Maze: Managing the Interplay Between the FMLA, ADA, PDA, and Workers' Compensation

Hosted by: EEOC Training Institute

April 19, 2021—12:55—3 PM

Virtual Event

Registration: eeoc.traininginstitute@eeoc.gov

EXCEL Conference

"2021 and Beyond: Best Practices for Employers"

Hosted by: EEOC Training Institute

June 15-17, 2021

More Information:

<https://eeotraining.eeoc.gov/profile/web/index.cfm?PKwebID=0x2547b105&varPage=location>

Free Diversity and Discrimination Prevention Training

Hosted by: MCCR

Location: Virtual Instruction Available

Click this [link](#) for a list of topics.

Contact: Kara Hunt, Director: Kara.Hunt1@maryland.gov

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Heritage and History Month Events

Hosted by: The Smithsonian

More Information: <https://www.si.edu/events/heritagemonth>

Medical Cannabis Symposium - Presentation Materials & Symposium Recording

More information on MCCR Education & Outreach webpage:

<https://mccr.maryland.gov/Pages/Education-Outreach.aspx>

2021 DIVERSITY CALENDAR

April 2021

Celebrate Diversity Month
National Autism Awareness Month

3/27- 4/4 Passover
4/2 Good Friday
4/4 Easter

May 2021

Asian Pacific Heritage Month

5/5 Cinco de Mayo
5/17 International Day Against Homophobia, Transphobia, Biphobia
5/31 Memorial Day

June 2021

Lesbian, Gay, Bisexual and Transgender Month
Immigrant Heritage Month
National Caribbean American Heritage Month

6/14 Flag Day
6/15 Native American Citizenship Day
6/19 Juneteenth or Freedom Day



RESOURCES FOR EEO PROFESSIONALS

Division of Rehabilitation Services (DORS)

<http://dors.maryland.gov/Pages/default.aspx>

Department of Labor

<http://www.dol.gov/>

Employee Assistance Program (EAP)

<http://www.dbm.maryland.gov/employees/Pages/EAP.aspx>

Equal Employment Opportunity Commission (EEOC)

<http://www.eeoc.gov/>

Job Accommodation Network (JAN)

<https://askjan.org/>

Maryland Commission on Civil Rights (MCCR)

<http://mccr.maryland.gov/>

Society for Human Resource Management (SHRM)

<http://www.shrm.org/pages/default.aspx>

Maryland Department of Disabilities

<http://mdod.maryland.gov/Pages/Home.aspx>

Out & Equal Workplace Advocates

<http://outandequal.org/>

National Service Animal Registry

<https://www.nsarco.com/>

Maryland LGBT Chamber of Commerce

<https://mdlgbt.org>

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